
Introduced by Senator Dunn

February 20, 2004

An act to add Section 340.35 to the Code of Civil Procedure, relating to statutes of limitation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1678, as introduced, Dunn. Statutes of limitation: damages: sexual abuse of a minor.

Existing law sets forth the statutes of limitation for various civil actions, as specified.

This bill would revive a cause of action, provided an action is brought before January 1, 2006, for the sexual abuse of a minor if any complaint, information, or indictment was filed in a criminal case based upon that abuse but the criminal case was dismissed pursuant to a specified decision of the United States Supreme Court holding that the revival of the criminal action after the criminal statute of limitation has expired constitutes an unconstitutional ex post facto law, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 340.35 is added to the Code of Civil
- 2 Procedure, to read:
- 3 340.35. (a) This section shall apply if both of the following
- 4 conditions are met:
- 5 (1) A complaint, information, or indictment was filed in a
- 6 criminal case initiated pursuant to subdivision (f), (g), or (h) of
- 7 Section 803 of the Penal Code.

1 (2) The case was dismissed pursuant to the United States
2 Supreme Court's decision in *Stogner v. California* (2003) 156
3 L.Ed.2d 544.

4 (b) Unless a longer period is prescribed for a specific action,
5 any action for damages against a defendant shall be commenced
6 before January 1, 2006.

7 (c) This section shall apply to any action commenced before,
8 on, or after the effective date of this section, including any action
9 otherwise barred by a limitation of time in effect prior to the
10 effective date of this section, thereby reviving those causes of
11 action that had lapsed or expired under the law in effect prior to the
12 effective date of this section.

13 (d) This section does not apply to either of the following:

14 (1) Any claim that has been litigated to finality on the merits in
15 any court of competent jurisdiction prior to the effective date of
16 this section. For purposes of this section, termination of a prior
17 action on the basis of the statute of limitations does not constitute
18 a claim that has been "litigated to finality on the merits."

19 (2) Any written, compromised settlement agreement that has
20 been entered into between a plaintiff and a defendant, if the
21 plaintiff was represented by an attorney who was admitted to
22 practice law in this state as the time of the settlement, and the
23 plaintiff signed the agreement.

24 (e) Any restitution paid by the defendant to the victim shall be
25 credited against any judgment, award, or settlement obtained
26 pursuant to this section. Any judgment, award, or settlement
27 obtained pursuant to an action under this section shall be subject
28 to Section 13966.01 of the Government Code.

